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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,245	11/01/2005	Talmon A. Murphy JR.	murphy 3	3951
40198 7590 04/02/2008 BUSH INTELLECTUAL PROPERTY LAW GROUP, LLC P.O. BOX 381146 BIRMINGHAM, AL 35238				
EXAMINER				
MARSH, STEVEN M				
ART UNIT		PAPER NUMBER		
3632				
MAIL DATE		DELIVERY MODE		
04/02/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/555,245

**Applicant(s)**

MURPHY, TALMON A.

**Examiner**

STEVEN M. MARSH

**Art Unit**

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-893)  
Paper No(s)/Mail Date 2062006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is the first office action for U.S. Application 10/555,245 for a Clipboard Organizer for Data Acquisition filed on November 1, 2005.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7 and 17-22 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 7,177,167 to Phifer et al. (Phifer). Phifer discloses portable writing board organizer that has a top portion (100) with an inner surface and outer surface, a front end, a back end, a first side and an opposite side. There is a bottom portion (200) with an inner surface and outer surface, a front end, a back end, a first side, and an opposite side. The top portion and bottom portion are pivotally connected at the back ends, and reversibly close together to form a hollow storage interior. The top portion has a first opening (192) that can be used for operating a laser distance measuring device and a second opening (other 192) that can be used for operating a computer. The back end of the top portion has an opening (at 164) that can accommodate a scope for a laser distance measuring device, and the first side of the top portion has an opening (408) that can project and detect a laser beam from a laser distance measuring device.

The bottom portion has an opening (250) that can accommodate a camera lens and the outer surface of the bottom portion has a clip (270) so the outer surface can function as a clipboard. The inner surface of the top portion has a connector mechanism (104) that can hold a computer against the inner surface of the top portion and the inner surface of the bottom portion has a connector mechanism that can hold a laser distance measuring device against the inner surface of the bottom portion. There is a divider tray (208) and openings (250... the openings other than the one that accommodates the camera lens) that can accommodate a tripod and electrical connectors. The front end of the top portion and bottom portion are constructed to form a handle (15). The claims contain limitations to the computer, but the computer is not positively recited in the claims and therefore the limitations to that structure contain no patentable significance.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-10, 12-15, 23-25, and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phifer et al. in view of U.S. Patent 4,665,620 to Osteen. Phifer does not disclose a tape measure and an opening to access it in combination with the clipboard. Osteen discloses a portable writing board (10) with a housing and a tape

measure (20, 22, 28) that can be accessed through an opening (27) in the housing, allowing a user of the clipboard to measure without having to put the clipboard down and find a tape measure. It would have been obvious to one of ordinary skill in the art to use the tape measure disclosed in Osteen in the clipboard housing of Phifer et al. to achieve the claimed invention. As disclosed in Osteen, the motivation for the combination would be to provide a tape measure with the clipboard so a user could hold the clipboard without having to find a separate tape measure or hold the two separately.

Claims 11, 16, 26, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phifer et al. in view of U.S. Patent 4,665,620 to Osteen, and in further view of U.S. Patent 1,290,811 to Ware. Phifer et al. in view of Osteen does not disclose a first side of the top or bottom portions having a ruler. Ware discloses a portable writing board with a ruler (12 and 13) with rulers at the sides to make sketching easier without requiring the use of separate rulers or T-squares. It would have been obvious to one of ordinary skill in the art to place rulers at the sides of the writing board taught by Phifer et al. in view of Osteen to achieve the claimed invention. As disclosed in Ware, the motivation for the combination would be to provide a ruler with the writing board to make sketching easier without requiring the use of separate rulers or T-squares.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 3977744 to DeWitt

US 4896927 to Liu et al.

US 4892334 to Sinclair

US 5174607 to Hill

US D428927 to Chang

US 6637774 to Gaska

The above patents disclose clipboard devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

/S. M. M./

Examiner, Art Unit 3632

Steven M. Marsh

March 27, 2008

/Korie H. Chan/  
Korie H. Chan  
Primary Examiner  
Art Unit 3632